
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

EAGLE VIEW TECHNOLOGIES, INC., and
PICTOMETRY INTERNATIONAL CORP.,

Plaintiffs,

v.

NEARMAP US, INC.,

Defendant.

**SECOND AMENDED PATENT CASE
SCHEDULING ORDER**

Case No. 2:21-cv-00283

District Judge Ted Stewart

Magistrate Judge Daphne A. Oberg

Plaintiffs Eagle View Technologies, Inc. and Pictometry International Corp. (collectively, “EagleView”) move to extend the close of fact discovery and subsequent deadlines by two months.¹ Defendant Nearmap US, Inc. opposes the requested extensions.² In the alternative, Nearmap proposes a one-month extension of fact discovery and subsequent deadlines but opposes any extension of the deadline to file motions to amend pleadings and add parties.³ Having reviewed the motion and opposition, the court finds good cause to extend the deadlines at issue for the reasons stated in EagleView’s motion. Further, EagleView’s proposed two-month extension provides a more realistic timeframe to complete fact discovery and file subsequent motions and briefs than Nearmap’s proposed one-month extension, particularly in light of the

¹ (Pls.’ Mot. to Am. Patent Case Scheduling Order, Doc. No. 141.)

² (Def.’s Opp’n to Pls.’ Mot. to Am. Patent Scheduling Order, Doc. No. 147.)

³ (*Id.*)

upcoming holidays. Additionally, EagleView's proposal sets the deadline to file motions to amend shortly after the close of fact discovery, consistent with the current scheduling order.⁴

For these reasons, EagleView's motion⁵ is GRANTED and the case schedule is amended as follows.

(1) PRELIMINARY MATTERS/DISCLOSURES

Event	Date
Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1]	December 6, 2021
Last day to hold Rule 26(f)(1) Conference and begin discovery [LPR 1.2, 1.3]	January 3, 2022
Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2]	January 7, 2022
Attorney Planning Meeting Report and Proposed Scheduling Order submitted [LPR 1.2]	January 10, 2022
Defendant's Rule 26(a)(1) initial disclosure due [LPR 2.2]	January 14, 2022
Plaintiff serves Initial Infringement Contentions [LPR 2.3]	February 10, 2022
Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4]	February 14, 2022
Final Infringement Contentions [LPR 3.1]	August 29, 2022
Final Unenforceability and Invalidity Contentions [LPR 3.1]	September 16, 2022
Final Non-Infringement Contentions [LPR 3.2]	September 30, 2022

(2) DISCOVERY LIMITATIONS

Event	Limitation
Maximum number of depositions ⁶ by Plaintiff(s)	10
Maximum number of depositions ⁷ by Defendant(s)	10

⁴ (See Am. Patent Case Scheduling Order 2, Doc. No. 99.)

⁵ (Doc. No. 141.)

⁶ Excluding depositions of experts.

⁷ Excluding depositions of experts.

Maximum number of hours for each deposition (unless extended by agreement of parties)	7
Maximum interrogatories ⁸ by any party to any party	25
Maximum requests for admissions by any party to any party	200
Maximum requests for production by any party to any party	100

The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as set forth in the Standard Protective Order for the United States District Court for the District of Utah.

Event	Date
Deadline to serve written discovery before claim construction [R. 34]	September 30, 2022
Close of fact discovery before claim construction [LPR 1.3(a)]	January 13, 2023
Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(b)]	7 days after claim construction ruling
Deadline to file motion for additional discovery [LPR 1.3(b)]	14 days after claim construction ruling

(3) AMENDMENT OF PLEADINGS/ADDING PARTIES⁹

Event	Date
Last day to file motion to amend pleadings	January 17, 2023
Last day to file motion to add parties	January 17, 2023

(4) CLAIM CONSTRUCTION PROCESS

Event	Date
Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]	October 18, 2022
Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]	October 25, 2022
Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]	January 23, 2023
Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]	February 10, 2023

⁸ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LPR 1.7.

⁹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

Event	Date
Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]	February 17, 2023
Tutorial for Court [LPR 4.4]	March 11, 2023
Parties exchange exhibits [LPR 4.3]	7 days before claim construction hearing
Claim Construction Hearing ¹⁰ [LPR 4.3]	TBD

(5) EXPERT DISCOVERY

Event	Date
Parties bearing burden of proof [LPR 5.1(b)]	28 days after claim construction ruling
Counter reports [LPR 5.1(c)]	56 days after claim construction ruling
Close of expert discovery [LPR 5.2]	91 days after claim construction ruling

(6) DISPOSITIVE MOTIONS

Event	Extended Date
Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]	January 23, 2023
Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1]	February 21, 2023
Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1]	March 7, 2023
Deadline for filing partial or complete motions to exclude expert testimony	105 days after claim construction ruling
Deadline for filing dispositive or potentially dispositive motions [LPR 6.1]	119 days after claim construction ruling

(7) SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/OTHER PROCEEDINGS

Event	Yes/No
Likely to request referral to a Magistrate Judge for settlement conference	Yes
Likely to request referral to court-annexed arbitration	No
Likely to request referral to court-annexed mediation	Yes
Last day to seek stay pending reexamination [LPR 3.5]	August 11, 2022

¹⁰ Parties should contact the Court to set the date for the Claim Construction Hearing

Event	Yes/No
The parties will complete private mediation/arbitration by:	TBD
The parties will evaluate case for Settlement/ADR on:	TBD
Settlement probability:	Likely

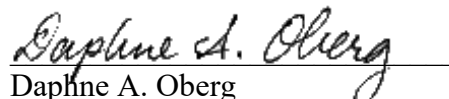
Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

(8) OTHER MATTERS

All Motions in Limine should be filed well in advance of the Final Pretrial Conference.

DATED this 7th day of November, 2022.

BY THE COURT:


Daphne A. Oberg
United States Magistrate Judge